

Court resumes.

Prosecutor opens by saying he took offence to Michael Edwards, said [displaying Hitler youth] is contempt of court, and wants him banned from court, and that he should not be viewing the proceeding, and that if he had done something like that in person, he would be thrown out.

Magistrate agrees that it did look concerning, but he removed it immediately when asked to do so. Allows him to stay but warns him he can't do it again.

Court will only go to 3:25pm as magistrate has another case he wants to hear before close of business.

5-6 witnesses to go.

Red: Prosecution

Green: Tom's Lawyer

Blue: Witness Answer

Next witness is Sam Kutchyara

Full name and occupation: Television journalist.

Who is your employer?

9 network.

On the date of the incident were you employed by Channel 9?

Yes, I was a journalist at A Current Affair

On that particular day, where were you at the time?

I was recording a voiceover in our voiceover booth in the newsroom.

Could you see the incident from your desk?

Yes

From what point in time did you see something happen.

I saw two men, and one of our security guards with these men outside. I saw one of the men shaping up to one of our security guards and a bit of back and forth between them.

Did you see anything other than shaping up?

Apart from 9 staff running outside to deescalate the situation

Did you take a video with your phone?

Yes

What did that capture?

It shows one of the men outside shaping up to the security guard and staff running outside.

What was the last thing you saw?

Our security guard walking back inside.

Mobile phone video won't be played following discussion between lawyers.

Cross examination by Tom's lawyer begins,

This show that you work for, A Current Affair, is that the show that was doing a segment on Mr Sewell?

Yes.

And you knew Thomas Sewell?

Yes

And you say he was shaping up with a security guard? Did you ever see a security guard shaping up aswell?

No.

There's some CCTV footage from the building, you've never been shown that stuff have you?

I've seen various bits of footage after the event. I've seen various bits of footage that was part of my role of investigating Thomas Sewell and the group. [EAM/NSN]

Was it CCTV or something else?

I can't recall specifically.

Have you seen CCTV footage that you can recall from the foyer of Channel 9 premises?

In terms of from inside the building, or outside? There's various bits of footage that we've all seen.

I believe I did see CCTV that you appear to be describing.

You say you didn't see the Security Guard shaping up to Mr Sewell in that footage?

I was describing what I saw, and that didn't include any shaping up. I've seen various bits of footage but it's difficult from distance to determine exactly what happened.

Witness excused.

Next witness, Keith Thompson

[Current] Occupation: Vendor and Asset Assistant.

Were you employed by ch9 on date of incident.

What was your role.

Yes, security supervisor.

You were in the foyer area? What was your role.

I was stationed at the front desk.

You were at the channel 9 desk?

Yes.

Were you alone?

Yes.

Did two men enter the foyer just before 5pm?

Yes.

What did they want?

They wanted to speak to A Current Affair.

In your role, did you do anything to facilitate.

I told them they were unlikely to be seen, but I made the call up to A Current Affair anyway.

What happened then?

They started filming in the foyer. Doing a monologue to the camera, then one of the building security came over and said they couldn't film.

Who was that

Thaddeus Francis. Thaddeus was telling them they couldn't film there and had to leave the foyer. They talked for a couple minutes before they left the foyer with Thaddeus.

Where you're located at your desk, can you see into the forecourt?

Yes

Did you see where 3 of them went?

They went out of the revolving doors, and to the first pillar there.

Anything beyond that?

I saw the altercation.

What caught your attention?

As they were leaving the foyer, it looked like Thaddeus was at ease. then I saw him and the cameraman both react to something, I didn't see what that was. Then immediately after that, Thomas hit Thaddeus.

How did he hit him?

In the side of the head.

How many times?

About 6 times.

What happened then?

He fell on top of "Thad" and [we came running].

Among the initial hits to Thaddeus, did you see any other interaction between the men?

Thaddeus was obviously trying to get Thomas off him

Then Thad came inside?

Yes.

You had a clear viewpoint to where the men were?

Yes.

Cross examination of witness by Tom's lawyer begins.

Name: Mark(?) Thompson

Mr Thompson, were you the security supervisor at the time?

I was

So you were in charge of all the security guards?

I was second in charge.

Mr Francis, on this day, did he [Thaddeus] have his actual security licence yet? As of that day?

I wouldn't be able to answer that. His team is a different team to mine, he worked for the building. I was security for A Current Affair.

Now, you were at that reception desk, and right in front of you these two men come up to you and chat to you. And you make the call and say no one's coming down.

Do you remember one of them saying we're just gonna do a bit of filming.

I don't remember that. I did tell them that they could film at the start, cause I saw the camera.

Did you or anyone else say to them "okay"

In relation to?

Filming.

I wouldn't have told them yes or no.

Did you see any physicality between the 3 of them at this stage.

I think "Thad" may have put his hand over the lens of the camera .

Can you demonstrate?

I think the other guy had it around waist height, and he probably put it over the lens.

Have you seen or been shown CCTV footage from inside that building of this incident

Yes

When did you last watch that?

Sometime last year. I haven't been employed by Channel 9 since March.

Well, whatever happened with the 3 of them, eventually you watched them all leave?

Yes.

In fact you made a statement to police about this.

Yes, that evening. 6:58pm,

So you watched them all walk towards the revolving doors, together?

Yes.

Thad, Sewell and cameraman, "Thad" effectively walking behind them, shepherding them out.

I don't specifically recall.

When the two men get to the door, the men leave first then followed immediately by Thaddeus?

Yes.

Reading from the statement, "I saw the cameraman and Thaddeus react to something, but i couldn't see what. When the two men went out the door they were immediately followed by Thaddeus, and within a short number of seconds this incident occurred."

That's right.

You see Thad gave evidence in this court this morning, and said he didn't follow them immediately, but turned off to the right, and up to a minute passed before he followed them outside. That's not your recollection.

Well I don't know the specific length of time but I don't remember.

And I asked you whether you saw what happened between the camera man and the security guard, but you said you couldn't see.

Correct.

Before Sewell hits Thaddeus, Thaddeus grabs the camera man around the throat. You didn't see that?

Not where I was sitting.

If you had seen that, it would be in your statement and you'd have told us about it today, correct?

Yes

One of the things you say in your statement, is when Thomas hit "Thad", "Thad" was focussed on the cameraman.

He was looking towards it.

So you saw that, but didn't see him reach out and grab his throat.

He was standing with his back towards me.

And then, when you say that this man, Thomas Sewell, was on top of Thad, you saw more punches? You must've moved up closer to the scene?

I wouldn't have needed to move up closer to the scene, i could see that.

How come you could see that bit, but not the earlier throat grab.

They moved behind the pillar.

When you saw this punching on the ground, were you still at the reception desk?

Yes I was still at the reception desk.

How many times do you reckon you saw this fellow [Tom] punch Thaddeus when he was on the ground?

I don't know how many times he hit him.

More than once?

I don't know how many times he hit him on the ground.

But you're certain at least once?

Certainly trying to?... (Said with hesitation)

Well that's different, up until now you've been saying he definitely hit him.

He was hitting as they fell to the ground.

Earlier you told us that Mr Sewell was still hitting him. You want to resile from that?

I would say he was attempting to hit him.

Up until a few minutes ago, you said hitting. Do you want to turn that into attempting hitting?

I don't know about the distance, but I saw him attempt to hit him, whether the punches landed I cant say.

For completeness i want to suggest that when they're on the ground there was some pulling at shirts, but no punches were thrown. You can see it on the video.

Did you see Tom Sewell's shirt ripped?

I did see it was ripped.

Did you see how it happened.

I don't specifically recall, perhaps as they went to the ground.

I would suggest to you it was as Tom Sewell was trying to get up, "Thad" had his shirt.

Once they get up, did you see them shaping up to each other?

Yes.

No punches thrown though?

Yes.

Next witness - Leanne Jones.

Prosecutor begins questioning:

Occupation: Directors assistant at Channel 9

Is this your present occupation?

Yes

On the day of the incident, something happened that came to your attention on the forecourt yes?

Yes.

Did you go down to the forecourt by yourself?

Yes, for a break.

Did you go out alone?

Yes, but I ended up being with someone I worked with, but I went down alone.

Did you pass the foyer on the way out?

I came down the stairs and come out of the door and went through the speed gates and as I went to the speed gate I could see two people in front of the channel 9 desk, and I could see people filming and making noise. I don't like being on camera so moved away. I couldn't hear cause of my poor hearing so just exited through the main doors that go outside.

Can you say anything about any interaction before that?

All I remember is our security guards just standing there and the other two people in front of the security desk making a lot of noise with the camera and I just got out of there.

We know there are revolving doors, did you go through those?

I cant remember if I went thru that, or there's a door immediately next to it.

So you travelled through those doors, where you go?

Straight ahead there's like a landscaped area, we go out there and have a break. As you get there there's a decked area and we just sat there for a while.

Prosecutor shows photos of area outside channel 9. Exhibit P1, photos 1-4. Asks to identify if the location she was in, is pictured.

"I can [identify the area] but its out of shot".

Photo 3, you can see the little concrete barrier, its right next to that. That goes up the side of the building and then there's a decked area.

Were you standing or sitting?

Sitting.

Who were you joined by?

----- Wilson? (First name inaudible)

Another employee?

Yes

What were you doing there.

Having a break.

Did you see these men outside the building and under what circumstances.

I saw them exiting the building and the 717 security guard [Thaddeus] was behind the two men. I believe they were still filming him, and there was a bit of noise going on. I just put my head down.

How close did those security guard and other two persons get to you?

A couple of metres.

That security guard, the 717 guard, that's the building guard right? did you know him?

Yes, but i didn't know his name.

You had your head down but could hear the yelling, what happened next?

I heard the most horrific crash of a head on concrete.

Did you see that or hear it?

I heard it. I didn't look up til I heard the bang, then I saw the security guard on the ground.

What happened then?

I jumped up, and screamed for Adrian, one of our security guards. And then I yelled a lot I think.

At that point where are the two men and the security guard?

Idk about the cameraman but the defendant was on top of the security guard punching him and i was yelling at him to get off.

looking at photos of location to gather bearings

Did you make any observations of the security guard after he got up off the ground?

He was quite wobbly, i guess you could describe it that way.

How did it make you feel?

Sick.

More looking at photos discussing location of incident

Cross examination by Tom's lawyer begins.

Did i hear you correctly, when you initially went outside, you saw the two men come outside from the revolving door, the security guard was following right on their heels?

He was behind them.

There was no delay?

No. He was asking them to leave.

See he gave evidence in this court, and said he went back towards his desk area for a while then came out. Is that true?

Not that i can remember no.

Then you get outside and take your seat and put your head down.

Yes

You hear some yelling but don't actually look up and see whatever's happening until you hear the bang. Whatever happened between these men, prior to you hearing the bang, you couldn't tell us?

No I couldn't, I didn't see.

Did anyone ever tell you it's on CCTV?

No I don't think so

So obviously you've never seen CCTV footage.

Only what's put on the news

Your news.

Yes, our news.

Now, then when you see this, the man is on the ground, you say he was getting pounced by this other man. How many times?

Idk, i was too busy yelling and screaming

What was the security guard doing?

He was lying there

Whilst the other man was punching?

Yes

Are you sure you saw that?

Yes I'm sure I saw that

I mean the bit about throwing punches

YES

In your statement to the police, you said the male was on top of the security guard punching into him

Yes.

Now, what I wanna suggest here is, did you see, did you actually see the man get on top of the security guard on the ground.

No

Did you see the security guard pulling on the t shirt of the man on top of him?

Not that i can remember

And when the man was on top of him, he eventually got him off yes?

Yes.

When he did that, did you see the guard still hanging onto his t shirt.?

no answer.

did you see both of them shape up to each other?

I think I can remember that happening. There were so many people around, I left.

You know when you saw the two men coming out first followed immediately by Thaddeus, did you ever see Mr Francis doing a dance?

No. Not that I can recall.

Tom's lawyer dances as Thaddeus did to demonstrate

You didn't see that, or hear anything?

No.

He said there was some music playing at the time, but you didn't hear that?

No.

I want to suggest to you, that you did see the security guard shaping up. And when you saw him shaping up, it was at that point you were yelling out "NO".

I may have yelled that out again, but I definitely yelled it out when he was on the ground.

Witness excused.

Next witness called - Adrian Ghetto

Prosecution begins:

Occupation: Security manager at Channel 9

Were you working on the day of the incident

Yes

Were you on site?

Yes

Were you in the foyer area at about 5:05pm?

Yes

Were you working with or conjunction with Mr Thompson

Yes, Mr Thompson was one of my employees at the security desk.

Were you also at the desk?

No i was making observations (doing the rounds).

When you came to the foyer what did you see?

There were two men talking to Mr Thompson, wanting to see someone from A Current Affair. Thompson was putting in phone calls to A Current Affair to see if they were expecting them.

Any observations about these two men at this time?

I thought one of them was a little bit pacey. The other kinda stood back, had a camera around his neck.

They were just saying they wanted to speak to someone from A Current Affair, and that it doesn't matter who it is. So the observation I had was that they weren't invited in, and just did a walk up, which happened regularly, so I just waited to see how things would unfold.

Did Thompson give them any advice?

Yes, after the phone call said there was no one at A Current Affair who would see them, and they'd have to follow the usual procedure, which is to contact Channel 9 by writing or phone.

Do you know security officer, Thaddeus Francis?

Yes. he was over at the building security desk which is 15metres away.

You said one of the men had a camera.

Yes it was around his neck, I wasn't sure if it was recording, it was just around his neck. But my focus was on the guy who was a little bit pacey.

What happened then?

Mr Thompson informed me these two men were going to be featuring on A Current Affair tonight, but no one will come down to meet them. At that point I walked over to Thaddeus to his desk and said keep an eye on these guys, I'm not sure what's going to happen.

They stood back 4-5 metres from the desk filming and doing a blog, a monologue of sorts to the camera. Calling channel 9 cowards, saying they wanted to see someone but no one would come out.

At that point Thaddeus approached me and said they're not allowed to film in the foyer and went back to his desk to get his card that gave him access to the speedgates.

Thad straight away went over and had his pass in his hand and was trying to block the recording.

At that point I said to Thompson he better call building security because it was starting to get heated, no pushing or shoving or anything, just raising voices.

Did you see the two men leave the building?

Yes

And what was Francis doing?

At that stage he was walking with them, saying reasonably loud: "stop filming, cant film in the foyer, you have to leave". Just repeated on and on and on. One of the guys was saying "let go of the camera, when you let go of the camera we'll go outside", and they went outside. Thad was inside the door for a short period of time, but then Thad followed them outside and said they have to go past a certain point.

Where were you positioned during all this?

I stayed still at the security desk

Did you continue watching what was happening?

Absolutely

What did you see?

They walked approximately 10-15 metres, looked like no issues, all 3 walking side by side. It looked at one stage that Thad was dancing or gesturing that he was happy, from what I could see. And then the guy with the camera and Thad disappeared from view behind a large pillar. Then I don't know what happened from that point on, but I saw one of the other guys just hit Thad and started laying into him.

Was your view obstructed?

I couldn't see the cameraman anymore, i could see part of Thad. The back of his right shoulder.

At the time you first see a punch, who can you see.

The guy that threw the punch and tried to continue hitting Thad, I don't know if he made contact, then i saw them fall back.

At that point in time, had you remained in the same position?

I immediately took off out there, as fast as I could. I could see them sizing up to each other, Thad was clearly distressed and concussed, very unstable on his feet. There was a couple other people, I stood between them, by the time I'd got there they'd pretty much stopped throwing punches at each other.

You got outside the building and said they were sizing up

Yes they were both sizing up and facing each other.

Around that moment, did either of them say anything to each other?

At that very time, I can't say that I heard anything. I know after I separated them, the person hitting him, said he picked on the wrong guy/man, or something like that.

What did you do from that point?

I followed Thad inside, went inside through the speedgates, Thad was bent over the hand basin splashing water on his head. I then opened the door and said he's in a bad way, call an ambulance.

When he came out of the toilet, building security were there and I said keep an eye on him, he's hit his head very hard.

Where did the men go?

Down the stairs, to Aurora lane.

Did they come back?

Not to my knowledge

Did an ambulance arrive?

Yes, and police.

Cross examination begins by Tom's Lawyer.

When you saw these two men sizing up, I heard you say, "they were both: "lets go".

Probably, they were probably at each other saying lets go. I don't remember exactly word for word. I had come out of the foyer and was walking reasonably quick. there were no blows, they were just ready to go again.

The video you handed over to the police, we've all got that.

The other thing i wanted to ask you about, was.. when you were describing how you were back at the desk, watching what was going on, you said Thad followed them outside and told them they had to go beyond the perimeter.

So I couldn't hear this, but I do know the process is that the permitter of the building has a grate or drain.

And you, said in your statement "that the building perimeter extends beyond the last turnstile doors towards a perimeter line which is the end of the awning. I can assume Francis was instructing them to move beyond the line if they wanted to continue filming."

Yes that's correct. Any filming must be beyond that point. I'm not sure if he said to me that he told them to go behind the line.

You were outside separating them, because you thought they were going to go again, did you see the other man, his shirt was ripped?

Oh yes, absolutely.

Did you see the point where that t-shirt got ripped?

I would say thinking back that the point that the shirt got ripped was as Thad was trying to get off the ground, and from what I can envision, it looked like Thad had broken his shirt trying to get up. I would assume the shirt was ripped from him. Thad was very unstable, he'd taken a very hard knock to his head, and even when standing there he was all over the shop.

I was going to suggest to you, they were on the ground the other man was getting up, off Thad, and Thaddeus was hanging on to the man's shirt.

Yes.

I take it, you didn't see either on the cctv or in real life, when they were on the ground, the man was not throwing punches at Mr Francis at that stage, was he?

When Thad was on his back, the other man was on top of him, throwing punches, but I don't know if any of them connected. But I definitely saw his arm moving as if he was plowing into him.

Do you say you can see that on the cctv?

I think you can.

Are you a betting man?

Not really.

Have you seen the footage that was taken by that cameraman that was there?

I haven't been shown, I saw it on Facebook. And there were 2 or 3 lots of vision that appeared shortly after they left, one was on fb when they showed the interview, I had seen the vision outside just before the attack happened, and I had seen the vision when they were in the car driving away .

The bit of vision you saw when they were outside, before the attack happened. Do you see you can see the man with the ripped shirt throwing punches at Mr Francis.

I cant say, I cant remember.

Witness excused.

Media have requested that they want access to the photos and evidence etc.

Lawyers say nothing should be given to media until tomorrow after case has done. Magistrate grants access to charge sheet only. Media can report on anything they've heard in open court, Just no access to documents. Magistrate will only grant access to charge sheet, with redactions to the defendants personal details.

Magistrate confirms client is currently on bail. No objection to bail being continued.

Mr Sewell bail conditions extended until tomorrow, where matter will recommence.